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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,082	12/12/2005	Shuji Hinuma	68137(46342)	9415
21874 7590 04/13/2010 EDWARDS ANGELL PALMER & DODGE LLP P.O. BOX 55874 BOSTON, MA 02205				
EXAMINER				
SWARTZ, RODNEY P				
ART UNIT		PAPER NUMBER		
1645				
MAIL DATE		DELIVERY MODE		
04/13/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/534,082

Applicant(s)

HINUMA ET AL.

Examiner

Rodney P. Swartz, Ph.D.

Art Unit

1645

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 15, 16, 24-28, 60, 62-64, 66 and 69-73 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7, 9, 15, 16, 24-28, 60, 62-64, 66 and 69-73 is/are allowed.
- 6) ☒ Claim(s) 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicants' Response to Office Action, received 22 January 2010, is acknowledged. Claims 10-14, 17-23, 65, 67 and 68 have been cancelled.
2. Claims 1-9, 15, 16, 24-28, 60, 62-64, 66 and 69-73 are pending and under consideration.

Objections Moot

3. The objection to claim 10 under 37 CFR 1.71 as being a substantial duplicate of claim 1, is moot in light of the cancellation of the claim.
4. The objection to claim 11 under 37 CFR 1.71 as being a substantial duplicate of claim 6, is moot in light of the cancellation of the claim.
5. The objection to claim 12 under 37 CFR 1.71 as being a substantial duplicate of claim 10, is moot in light of the cancellation of the claim.
6. The objection to claim 13 under 37 CFR 1.71 as being a substantial duplicate of claim 10, is moot in light of the cancellation of the claim.
7. The objection to claim 14 under 37 CFR 1.71 as being a substantial duplicate of claim 10, is moot in light of the cancellation of the claim.
8. The objection to claim 17 under 37 CFR 1.71 as being a substantial duplicate of claim 15, is moot in light of the cancellation of the claim.
9. The objection to claim 18 under 37 CFR 1.71 as being a substantial duplicate of claim 16, is moot in light of the cancellation of the claim.
10. The objection to claim 19 under 37 CFR 1.71 as being a substantial duplicate of claim 16, is moot in light of the cancellation of the claim.

11. The objection to claim 20 under 37 CFR 1.71 as being a substantial duplicate of claim 15, is moot in light of the cancellation of the claim.
12. The objection to claim 21 under 37 CFR 1.71 as being a substantial duplicate of claim 16, is moot in light of the cancellation of the claim.
13. The objection to claim 22 under 37 CFR 1.71 as being a substantial duplicate of claim 20, is moot in light of the cancellation of the claim.
14. The objection to claim 23 under 37 CFR 1.71 as being a substantial duplicate of claim 20, is moot in light of the cancellation of the claim.
15. The objection to claim 65 under 37 CFR 1.71 as being a substantial duplicate of claim 62, is moot in light of the cancellation of the claim.
16. The objection to claim 67 under 37 CFR 1.71 as being a substantial duplicate of claim 66, is moot in light of the cancellation of the claim.
17. The objection to claim 68 under 37 CFR 1.71 as being a substantial duplicate of claim 66, is moot in light of the cancellation of the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

18. Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Mukai et al (WO01/66734, 13September2001).

One embodiment of claim 8 is a peptide consisting of an amino acid sequence having at least 90% homology to the amino acid sequence of SEQ ID NO:19 (15 residues).

Mukai et al teach a 15 residue amino acid sequence (SEQ ID NO:5, page 21-22, claim 4) which is 93.5% identical to instant SEQ ID NO:19.

Conclusion

19. Claim 8 is rejected.
20. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rodney P. Swartz, Ph.D., Art Unit 1645, whose telephone number is (571) 272-0865. The examiner can normally be reached on Monday through Wednesday from 9:00 AM to 7:30 PM EST. Thursday is the examiner's work at home day.

If attempts to reach the Examiner by telephone are unsuccessful, please contact the Examiner's Supervisor, Robert B. Mondesi (571)272-0956.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Rodney P. Swartz, Ph.D./

Primary Examiner, Art Unit 1645

April 13, 2010